



Sen. David Koehler

**Filed: 3/25/2009**

09600SB0587sam001

LRB096 06649 RLJ 24621 a

1 AMENDMENT TO SENATE BILL 587

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 587 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Counties Code is amended by changing  
5 Section 5-1006.5 as follows:

6 (55 ILCS 5/5-1006.5)

7 Sec. 5-1006.5. Special County Retailers' Occupation Tax  
8 For Public Safety, Public Facilities, or Transportation.

9 (a) The county board of any county may impose a tax upon  
10 all persons engaged in the business of selling tangible  
11 personal property, other than personal property titled or  
12 registered with an agency of this State's government, at retail  
13 in the county on the gross receipts from the sales made in the  
14 course of business to provide revenue to be used exclusively  
15 for public safety, public facility, or transportation purposes  
16 in that county, if a proposition for the tax has been submitted

1 to the electors of that county and approved by a majority of  
2 those voting on the question. If imposed, this tax shall be  
3 imposed only in one-quarter percent increments. By resolution,  
4 the county board may order the proposition to be submitted at  
5 any election. If the tax is imposed for transportation purposes  
6 for expenditures for public highways or as authorized under the  
7 Illinois Highway Code, the county board must publish notice of  
8 the existence of its long-range highway transportation plan as  
9 required or described in Section 5-301 of the Illinois Highway  
10 Code and must make the plan publicly available prior to  
11 approval of the ordinance or resolution imposing the tax. If  
12 the tax is imposed for transportation purposes for expenditures  
13 for passenger rail transportation, the county board must  
14 publish notice of the existence of its long-range passenger  
15 rail transportation plan and must make the plan publicly  
16 available prior to approval of the ordinance or resolution  
17 imposing the tax.

18 If a tax is imposed for public facilities purposes, then  
19 the name of the project may be included in the proposition at  
20 the discretion of the county board as determined in the  
21 enabling resolution. For example, the "XXX Nursing Home" or the  
22 "YYY Museum".

23 The county clerk shall certify the question to the proper  
24 election authority, who shall submit the proposition at an  
25 election in accordance with the general election law.

26 (1) The proposition for public safety purposes shall be

1 in substantially the following form:

2 "To pay for public safety purposes, shall (name of  
3 county) be authorized to impose an increase on its share of  
4 local sales taxes by (insert rate)?"

5 As additional information on the ballot below the  
6 question shall appear the following:

7 "This would mean that a consumer would pay an  
8 additional (insert amount) in sales tax for every \$100 of  
9 tangible personal property bought at retail."

10 The county board may also opt to establish a sunset  
11 provision at which time the additional sales tax would  
12 cease being collected, if not terminated earlier by a vote  
13 of the county board. If the county board votes to include a  
14 sunset provision, the proposition for public safety  
15 purposes shall be in substantially the following form:

16 "To pay for public safety purposes, shall (name of  
17 county) be authorized to impose an increase on its share of  
18 local sales taxes by (insert rate) for a period not to  
19 exceed (insert number of years)?"

20 As additional information on the ballot below the  
21 question shall appear the following:

22 "This would mean that a consumer would pay an  
23 additional (insert amount) in sales tax for every \$100 of  
24 tangible personal property bought at retail. If imposed,  
25 the additional tax would cease being collected at the end  
26 of (insert number of years), if not terminated earlier by a

1 vote of the county board."

2 For the purposes of the paragraph, "public safety  
3 purposes" means crime prevention, detention, fire  
4 fighting, police, medical, ambulance, or other emergency  
5 services.

6 Votes shall be recorded as "Yes" or "No".

7 (2) The proposition for transportation purposes shall  
8 be in substantially the following form:

9 "To pay for improvements to roads and other  
10 transportation purposes, shall (name of county) be  
11 authorized to impose an increase on its share of local  
12 sales taxes by (insert rate)?"

13 As additional information on the ballot below the  
14 question shall appear the following:

15 "This would mean that a consumer would pay an  
16 additional (insert amount) in sales tax for every \$100 of  
17 tangible personal property bought at retail."

18 The county board may also opt to establish a sunset  
19 provision at which time the additional sales tax would  
20 cease being collected, if not terminated earlier by a vote  
21 of the county board. If the county board votes to include a  
22 sunset provision, the proposition for transportation  
23 purposes shall be in substantially the following form:

24 "To pay for road improvements and other transportation  
25 purposes, shall (name of county) be authorized to impose an  
26 increase on its share of local sales taxes by (insert rate)

1 for a period not to exceed (insert number of years)?"

2 As additional information on the ballot below the  
3 question shall appear the following:

4 "This would mean that a consumer would pay an  
5 additional (insert amount) in sales tax for every \$100 of  
6 tangible personal property bought at retail. If imposed,  
7 the additional tax would cease being collected at the end  
8 of (insert number of years), if not terminated earlier by a  
9 vote of the county board."

10 For the purposes of this paragraph, transportation  
11 purposes means construction, maintenance, operation, and  
12 improvement of public highways, any other purpose for which  
13 a county may expend funds under the Illinois Highway Code,  
14 and passenger rail transportation.

15 The votes shall be recorded as "Yes" or "No".

16 (3) The proposition for public facilities ~~facility~~  
17 purposes shall be in substantially the following form:

18 "To pay for public facilities ~~facility~~ purposes, shall  
19 (name of county) be authorized to impose an increase on its  
20 share of local sales taxes by (insert rate)?"

21 As additional information on the ballot below the  
22 question shall appear the following:

23 "This would mean that a consumer would pay an  
24 additional (insert amount) in sales tax for every \$100 of  
25 tangible personal property bought at retail."

26 The county board may also opt to establish a sunset

1 provision at which time the additional sales tax would  
2 cease being collected, if not terminated earlier by a vote  
3 of the county board. If the county board votes to include a  
4 sunset provision, the proposition for public facilities  
5 ~~facility~~ purposes shall be in substantially the following  
6 form:

7 "To pay for public facilities ~~facility~~ purposes, shall  
8 (name of county) be authorized to impose an increase on its  
9 share of local sales taxes by (insert rate) for a period  
10 not to exceed (insert number of years)?"

11 As additional information on the ballot below the  
12 question shall appear the following:

13 "This would mean that a consumer would pay an  
14 additional (insert amount) in sales tax for every \$100 of  
15 tangible personal property bought at retail. If imposed,  
16 the additional tax would cease being collected at the end  
17 of (insert number of years), if not terminated earlier by a  
18 vote of the county board."

19 For purposes of this Section, "public facilities  
20 purposes" means the acquisition, development,  
21 construction, reconstruction, rehabilitation, improvement,  
22 financing, architectural planning, and installation of  
23 capital facilities consisting of buildings, structures,  
24 and durable equipment and for the acquisition and  
25 improvement of real property and interest in real property  
26 required, or expected to be required, in connection with

1 the public facilities, for use by the county for the  
2 furnishing of governmental services to its citizens,  
3 including but not limited to museums and nursing homes.

4 The votes shall be recorded as "Yes" or "No".

5 If a majority of the electors voting on the proposition  
6 vote in favor of it, the county may impose the tax. A county  
7 may not submit more than one proposition authorized by this  
8 Section to the electors at any one time.

9 This additional tax may not be imposed on the sales of food  
10 for human consumption that is to be consumed off the premises  
11 where it is sold (other than alcoholic beverages, soft drinks,  
12 and food which has been prepared for immediate consumption) and  
13 prescription and non-prescription medicines, drugs, medical  
14 appliances and insulin, urine testing materials, syringes, and  
15 needles used by diabetics. The tax imposed by a county under  
16 this Section and all civil penalties that may be assessed as an  
17 incident of the tax shall be collected and enforced by the  
18 Illinois Department of Revenue and deposited into a special  
19 fund created for that purpose. The certificate of registration  
20 that is issued by the Department to a retailer under the  
21 Retailers' Occupation Tax Act shall permit the retailer to  
22 engage in a business that is taxable without registering  
23 separately with the Department under an ordinance or resolution  
24 under this Section. The Department has full power to administer  
25 and enforce this Section, to collect all taxes and penalties  
26 due under this Section, to dispose of taxes and penalties so

1 collected in the manner provided in this Section, and to  
2 determine all rights to credit memoranda arising on account of  
3 the erroneous payment of a tax or penalty under this Section.  
4 In the administration of and compliance with this Section, the  
5 Department and persons who are subject to this Section shall  
6 (i) have the same rights, remedies, privileges, immunities,  
7 powers, and duties, (ii) be subject to the same conditions,  
8 restrictions, limitations, penalties, and definitions of  
9 terms, and (iii) employ the same modes of procedure as are  
10 prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j, 1k, 1m,  
11 1n, 2 through 2-70 (in respect to all provisions contained in  
12 those Sections other than the State rate of tax), 2a, 2b, 2c, 3  
13 (except provisions relating to transaction returns and quarter  
14 monthly payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i,  
15 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of  
16 the Retailers' Occupation Tax Act and Section 3-7 of the  
17 Uniform Penalty and Interest Act as if those provisions were  
18 set forth in this Section.

19 Persons subject to any tax imposed under the authority  
20 granted in this Section may reimburse themselves for their  
21 sellers' tax liability by separately stating the tax as an  
22 additional charge, which charge may be stated in combination,  
23 in a single amount, with State tax which sellers are required  
24 to collect under the Use Tax Act, pursuant to such bracketed  
25 schedules as the Department may prescribe.

26 Whenever the Department determines that a refund should be

1 made under this Section to a claimant instead of issuing a  
2 credit memorandum, the Department shall notify the State  
3 Comptroller, who shall cause the order to be drawn for the  
4 amount specified and to the person named in the notification  
5 from the Department. The refund shall be paid by the State  
6 Treasurer out of the County Public Safety or Transportation  
7 Retailers' Occupation Tax Fund.

8 (b) If a tax has been imposed under subsection (a), a  
9 service occupation tax shall also be imposed at the same rate  
10 upon all persons engaged, in the county, in the business of  
11 making sales of service, who, as an incident to making those  
12 sales of service, transfer tangible personal property within  
13 the county as an incident to a sale of service. This tax may  
14 not be imposed on sales of food for human consumption that is  
15 to be consumed off the premises where it is sold (other than  
16 alcoholic beverages, soft drinks, and food prepared for  
17 immediate consumption) and prescription and non-prescription  
18 medicines, drugs, medical appliances and insulin, urine  
19 testing materials, syringes, and needles used by diabetics. The  
20 tax imposed under this subsection and all civil penalties that  
21 may be assessed as an incident thereof shall be collected and  
22 enforced by the Department of Revenue. The Department has full  
23 power to administer and enforce this subsection; to collect all  
24 taxes and penalties due hereunder; to dispose of taxes and  
25 penalties so collected in the manner hereinafter provided; and  
26 to determine all rights to credit memoranda arising on account

1 of the erroneous payment of tax or penalty hereunder. In the  
2 administration of, and compliance with this subsection, the  
3 Department and persons who are subject to this paragraph shall  
4 (i) have the same rights, remedies, privileges, immunities,  
5 powers, and duties, (ii) be subject to the same conditions,  
6 restrictions, limitations, penalties, exclusions, exemptions,  
7 and definitions of terms, and (iii) employ the same modes of  
8 procedure as are prescribed in Sections 2 (except that the  
9 reference to State in the definition of supplier maintaining a  
10 place of business in this State shall mean the county), 2a, 2b,  
11 2c, 3 through 3-50 (in respect to all provisions therein other  
12 than the State rate of tax), 4 (except that the reference to  
13 the State shall be to the county), 5, 7, 8 (except that the  
14 jurisdiction to which the tax shall be a debt to the extent  
15 indicated in that Section 8 shall be the county), 9 (except as  
16 to the disposition of taxes and penalties collected), 10, 11,  
17 12 (except the reference therein to Section 2b of the  
18 Retailers' Occupation Tax Act), 13 (except that any reference  
19 to the State shall mean the county), Section 15, 16, 17, 18, 19  
20 and 20 of the Service Occupation Tax Act and Section 3-7 of the  
21 Uniform Penalty and Interest Act, as fully as if those  
22 provisions were set forth herein.

23 Persons subject to any tax imposed under the authority  
24 granted in this subsection may reimburse themselves for their  
25 serviceman's tax liability by separately stating the tax as an  
26 additional charge, which charge may be stated in combination,

1 in a single amount, with State tax that servicemen are  
2 authorized to collect under the Service Use Tax Act, in  
3 accordance with such bracket schedules as the Department may  
4 prescribe.

5 Whenever the Department determines that a refund should be  
6 made under this subsection to a claimant instead of issuing a  
7 credit memorandum, the Department shall notify the State  
8 Comptroller, who shall cause the warrant to be drawn for the  
9 amount specified, and to the person named, in the notification  
10 from the Department. The refund shall be paid by the State  
11 Treasurer out of the County Public Safety or Transportation  
12 Retailers' Occupation Fund.

13 Nothing in this subsection shall be construed to authorize  
14 the county to impose a tax upon the privilege of engaging in  
15 any business which under the Constitution of the United States  
16 may not be made the subject of taxation by the State.

17 (c) The Department shall immediately pay over to the State  
18 Treasurer, ex officio, as trustee, all taxes and penalties  
19 collected under this Section to be deposited into the County  
20 Public Safety or Transportation Retailers' Occupation Tax  
21 Fund, which shall be an unappropriated trust fund held outside  
22 of the State treasury. On or before the 25th day of each  
23 calendar month, the Department shall prepare and certify to the  
24 Comptroller the disbursement of stated sums of money to the  
25 counties from which retailers have paid taxes or penalties to  
26 the Department during the second preceding calendar month. The

1 amount to be paid to each county, and deposited by the county  
2 into its special fund created for the purposes of this Section,  
3 shall be the amount (not including credit memoranda) collected  
4 under this Section during the second preceding calendar month  
5 by the Department plus an amount the Department determines is  
6 necessary to offset any amounts that were erroneously paid to a  
7 different taxing body, and not including (i) an amount equal to  
8 the amount of refunds made during the second preceding calendar  
9 month by the Department on behalf of the county and (ii) any  
10 amount that the Department determines is necessary to offset  
11 any amounts that were payable to a different taxing body but  
12 were erroneously paid to the county. Within 10 days after  
13 receipt by the Comptroller of the disbursement certification to  
14 the counties provided for in this Section to be given to the  
15 Comptroller by the Department, the Comptroller shall cause the  
16 orders to be drawn for the respective amounts in accordance  
17 with directions contained in the certification.

18 In addition to the disbursement required by the preceding  
19 paragraph, an allocation shall be made in March of each year to  
20 each county that received more than \$500,000 in disbursements  
21 under the preceding paragraph in the preceding calendar year.  
22 The allocation shall be in an amount equal to the average  
23 monthly distribution made to each such county under the  
24 preceding paragraph during the preceding calendar year  
25 (excluding the 2 months of highest receipts). The distribution  
26 made in March of each year subsequent to the year in which an

1 allocation was made pursuant to this paragraph and the  
2 preceding paragraph shall be reduced by the amount allocated  
3 and disbursed under this paragraph in the preceding calendar  
4 year. The Department shall prepare and certify to the  
5 Comptroller for disbursement the allocations made in  
6 accordance with this paragraph.

7 (d) For the purpose of determining the local governmental  
8 unit whose tax is applicable, a retail sale by a producer of  
9 coal or another mineral mined in Illinois is a sale at retail  
10 at the place where the coal or other mineral mined in Illinois  
11 is extracted from the earth. This paragraph does not apply to  
12 coal or another mineral when it is delivered or shipped by the  
13 seller to the purchaser at a point outside Illinois so that the  
14 sale is exempt under the United States Constitution as a sale  
15 in interstate or foreign commerce.

16 (e) Nothing in this Section shall be construed to authorize  
17 a county to impose a tax upon the privilege of engaging in any  
18 business that under the Constitution of the United States may  
19 not be made the subject of taxation by this State.

20 (e-5) If a county imposes a tax under this Section, the  
21 county board may, by ordinance, discontinue or lower the rate  
22 of the tax. If the county board lowers the tax rate or  
23 discontinues the tax, a referendum must be held in accordance  
24 with subsection (a) of this Section in order to increase the  
25 rate of the tax or to reimpose the discontinued tax.

26 (f) Beginning April 1, 1998, the results of any election

1 authorizing a proposition to impose a tax under this Section or  
2 effecting a change in the rate of tax, or any ordinance  
3 lowering the rate or discontinuing the tax, shall be certified  
4 by the county clerk and filed with the Illinois Department of  
5 Revenue either (i) on or before the first day of April,  
6 whereupon the Department shall proceed to administer and  
7 enforce the tax as of the first day of July next following the  
8 filing; or (ii) on or before the first day of October,  
9 whereupon the Department shall proceed to administer and  
10 enforce the tax as of the first day of January next following  
11 the filing.

12 (g) When certifying the amount of a monthly disbursement to  
13 a county under this Section, the Department shall increase or  
14 decrease the amounts by an amount necessary to offset any  
15 miscalculation of previous disbursements. The offset amount  
16 shall be the amount erroneously disbursed within the previous 6  
17 months from the time a miscalculation is discovered.

18 (h) This Section may be cited as the "Special County  
19 Occupation Tax For Public Safety, Public Facilities, or  
20 Transportation Law".

21 (i) For purposes of this Section, "public safety" includes,  
22 but is not limited to, crime prevention, detention, fire  
23 fighting, police, medical, ambulance, or other emergency  
24 services. For the purposes of this Section, "transportation"  
25 includes, but is not limited to, the construction, maintenance,  
26 operation, and improvement of public highways, any other

1 purpose for which a county may expend funds under the Illinois  
2 Highway Code, and passenger rail transportation. For the  
3 purposes of this Section, "public facilities purposes"  
4 includes, but is not limited to, the acquisition, development,  
5 construction, reconstruction, rehabilitation, improvement,  
6 financing, architectural planning, and installation of capital  
7 facilities consisting of buildings, structures, and durable  
8 equipment and for the acquisition and improvement of real  
9 property and interest in real property required, or expected to  
10 be required, in connection with the public facilities, for use  
11 by the county for the furnishing of governmental services to  
12 its citizens, including but not limited to museums and nursing  
13 homes.

14 (j) The Department may promulgate rules to implement this  
15 amendatory Act of the 95th General Assembly only to the extent  
16 necessary to apply the existing rules for the Special County  
17 Retailers' Occupation Tax for Public Safety to this new purpose  
18 for public facilities.

19 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08;  
20 95-1002, eff. 11-20-08.)

21 Section 99. Effective date. This Act takes effect upon  
22 becoming law."